

N.A.S.D. AWARD
NATIONAL ASSOCIATION OF SECURITIES DEALERS

In the Matter of the Arbitration Between

Name of Claimant(s)

Robert M. Cohen, Trustee

90-00084 (Consol. w/ 90-00085)

Name of Respondent(s)

Ladenburg, Thalmann & Co., Inc.

Heard before:

Name

Frank R. Smith
Michael Strieby
Linda Lee Weber

Public/Industry

Public Chair
Public
Industry

REFERENCES

Claimants Robert M. Cohen and Edward S. Singer were represented by Richard A. Love, Esq.

Respondent Ladenburg, Thalmann & Co. Inc. was represented by Gary Plessman, Esq.

CASE SUMMARY

This matter was initiated by a Statement of Claim filed with the National Association of Securities Dealers, Inc. ("NASD") by Edward S. Singer on January 4, 1990 and by Robert M. Cohen on January 4, 1990.

Claimant, Edward S. Singer (Singer), trustee of the Edward S. Singer 1931 Trust, alleges that Respondent, Ladenburg, Thalmann & Co., Inc. (Ladenburg) sold to him, a real estate investment trust (REIT) for his trust account. Singer asserts that said REIT was represented to him as being a low risk investment and that the properties in the REIT would increase in value. Subsequent to making the investment, the stock began to decline in price. Singer contends that Ladenburg knew or should have known that the REIT was in financial difficulties and that it was lending money on properties in high risk areas.

Singer alleges that had he known the facts alleged above that he would not have made the initial purchase.

AWARD

Claimant, Robert M. Cohen (Cohen), trustee of Robert M. Cohen, A Professional Corporation Defined Benefit Pension Plan, alleges essentially the same claim against Ladenburg as Singer.

Respondent, Ladenburg, assert that Claimants, Cohen and Singer were both sophisticated, experienced investors who knew and should have known that Ladenburg was, in no way, guaranteeing their investments in the REIT and that they knowingly accepted the risk in return for the high yields offered. Ladenburg also alleges that the claimants were each given a prospectus on the investment and said prospectus disclosed the nature of the investments held by the REIT.

Claimant, Robert M. Cohen, seeks to recover the sum of \$77,500.00, prejudgment interest, and exemplary damages.

Claimant, Edward S. Singer, seeks to recover the sum of \$8,000. prejudgment interest, and exemplary damages.

Respondent, Ladenburg, Thalmann & Co, Inc. seeks dismissal of the claims in their entirety.

On May 23, and 24, 1991, in Los Angeles, California, in a hearing lasting 4 sessions, the undersigned arbitrators heard the controversy between the parties as set forth in submissions to arbitration signed by Claimant, Robert M. Cohen as Trustee of the Robert M. Cohen, A Professional Corporation Defined Benefit Plan on November 27, 1989. and by Claimant, Edward S. Singer as trustee under a trust dated January 2, 1931, Rose Singer, Bernice Singer and Edward S. Singer, Trustees and signed by Norman S. Lawi on behalf of Respondent, Ladenburg, Thalmann & Co. Inc. on February 14, 1990.

After considering the pleadings, the testimony, and the evidence presented at the hearing, the arbitrators have decided in full and final resolution of the issues submitted for determination as follows:

1. Each and every claim of Edward S. Singer, as trustee of said 1931 trust against Respondent Ladenburg, Thalmann & Co. , Inc., is dismissed.
2. Each and every claim of Robert M. Cohen, trustee of the Robert M. Cohen, A Professional Corporation Defined Benefit Plan, is dismissed.
3. The parties shall each bear their respective costs including attorneys' fees.

FORUM FEES

In accordance with Section 43c of the NASD Code of Arbitration Procedure, the NASD shall retain the \$250.00 filing fee previously deposited by the Claimant Edward S. Singer, and shall retain the \$500.00 filing fee previously deposited by the Claimant, Robert M. Cohen. In addition, Respondent is also assessed fees of \$ 750.00 in forum fees. Fees are payable to the National Association of Securities Dealers, Inc.

Concurring Arbitrators Signatures

Frank R. Smith

Michael Strieby

Linda Lee Weber

Date of Decision: 6.11.91